

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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DUKE FERGERSON,

Plaintiff,

v.

**08 Civ 4701 (BSJ)**

THE DEPARTMENT OF EDUCATION OF  
THE CITY OF NEW YORK, and KAREN WATTS  
Individually and in her official capacity as principal  
of Wadleigh Secondary School,

Defendants.

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**PLAINTIFF'S DECLARATION**

1. I am the plaintiff in the above captioned matter and am personally familiar with the matters set forth below. I submit this declaration in support of emergency relief to have the football program reinstated.

2. Principal Karen Watts of Wadleigh Secondary school for the Performing Arts; has sponsored the Harlem-Hell-fighters after-school football program for the last three years. The program is a scholar/athlete program that was established to provide college scholarship opportunities for at-risk-males throughout the NYC Public school system. Based in Harlem, the Harlem Hell-fighters is the first high school football team in Harlem in sixty-two years. Chancellor Klein signed a waiver in October 2003 allowing for the formation of a community based team comprised of student/athletes from high school, which lack football.

3. In September 2007, Ms. Karen Watts informed me that she intended to form a football team comprised of just Wadleigh student/athletes. Ms. Watts offered me the coaching position for the proposed team, but I declined. Ms. Watts then indicated that she would allow for a one-year transition period to find an alternative arrangement of sponsorship at another NYCDOE school. That year would cover September 2007 to September 2008.

4. I am a former NFL football player. My goal was to lift disadvantaged youths through the football out of poverty. In order to a part of the football team, one has to maintain a certain grade point average and stay “out of trouble”. As explained below, the football team has been a huge success and now has positioned many student athletes for scholarships at prestigious colleges and universities. (ESPN made a ninety-minute documentary concerning the program that frequently airs) However, without the football program, there would be little or no hope for these students since they do not have the financial ability and would not have been accepted at these schools. In short, they would still be trapped in the relentless cycle of poverty.

5. As a way of background, I was employed as a substitute teacher and coach starting 2005/2006 school year at Wadleigh Secondary School. Thereafter, in the 2006/2007 school year, I was the coach of record employed by the New York City Department of Education for the Wadleigh Secondary School.

6. Thereafter, in the 2007/2008 school year, I was the coach of record and employed by the New York City Department of Education for the Wadleigh Secondary School and performed my job responsibilities competently throughout my tenure as a teacher and coach. On or about October 13, 2007, I took the football team (Harlem Hellfighters) to McKee Staten Island Technical School to play a football game. There was a racially charged atmosphere at the game

and on the visitors' bench was painted "YO YOU NIGGERS SUCK" It has the School's initials next to the quote. I was utterly shocked and dismayed that in 2007 in New York City such an ugly racial environment could still exist.

7. As soon as I observed the racial epitaph, I immediately went to school safety officer and brought them over to the bench and asked them to call their Desk Captain over. Thereafter, the Assistant Principal came over and then he tried to convince me to ignore it and stated that it was no big deal.

8. Thereafter, the Athletic Director literally started to heckle me and challenged my credentials and asked why I was there.

9. I decided to call the police and advised the head referee not to move the bench. The referee stated that he is moving the bench and that we are starting the game. The bench was picked and moved to a baseball diamond and another bench was brought over. The game's head referee ordered the crime scene evidence removed. When I mentioned to him that this was a crime scene and that he was tampering with evidence, he showed no regard for the law. He ordered the bench removed and stored the evidence in the schools building. It was never removed and taken to a crime scene lab for testing.

10. During the game, I requested a timeout to conference with the referee. When I questioned his ability to call an impartial game based on the bench-removing situation, he flagged the team for a 15-yard penalty and then threatens to have me removed from the field if I mentioned the issue of race again.

11. I was cautioned not to mention race or the football game would be forfeited. Eventually the police came during the game, and I was interviewed. The policeman told me that

he should not have called the police and that they had to continue the game. A police report was taken and the press became aware of the incident and were present during the investigation. I told the press including the New York Post, New York Times and the Staten Island Alive and other papers about the incident. In addition, the matter was broadcast on CBS, ABC and Fox and other stations.

12. We returned to Wadleigh the following Monday to atmosphere of deep animosity and resentment from the Ms. Watts and other members of Wadleigh's administrative staff.

13. The program was being blamed for bringing too much attention to the school and that she [Ms. Watts] didn't like the press. Then she turned the whole situation into a personal attack on me "The whole situation is me."

14. Ms. Watts had me harassed by the school security officer; she would not allow me to get to my mail during recruiting season, Ms. Watts then proceeded to humiliate me further by having the school police announced in the entry way of Wadleigh that I was no longer allowed on campus without a police escort.

15. By Ms. Watt eliminating the agreed upon, one year transitional period, the Harlem-hell-fighter program was left unaffiliated with a NYCDOE school. This unwanted status has seriously jeopardized the Harlem hell-fighter program future existence. The rising seniors' opportunities to play and be seen by colleges who can offer scholarships are severely crippled.

16. In an act of retaliation and retribution for calling the press and for filing a discrimination claim against the DOE and the PSAL, The PSAL has used this opportunity to leave off the Harlem Hellfighters of the 2008 -2009 football schedule. Allan Arbuse, the PSAL Commissioner of Football was quoted in by Staten Island News and the Staten Island Live "I should

have never called the police, but instead I should have called the PSAL- Mr. Arbuse has never returned any of my calls over the last five years.

17. Executive Director of the PSAL, Donald Douglas, continues to shown very aggressive levels of animosity against the Harlem Hell-fighter program. Last year, he attempted to forfeit our playoff game because we didn't have blue color of Jerseys; denied us home field advantaged as the top seeded team in the playoffs; communicated that the deadline date for securing a sponsoring school was May 11, when on May 9<sup>th</sup> Tyrone Parker of the PSAL told me he didn't know he had not heard of deadline. The PSAL website posted a June 13, 2008 dead line for any changes submitted for the roster.

18. We met the June 13<sup>th</sup> PSAL's website posted deadline to submit request for changes in the schedule. AD, AP and Principal have not heard from Donald Douglas by phone, emails or letter. The Hon. Keith Wright even wrote a letter on behalf of the program to Chancellor Klein...over a month ago. There was no response.

19. I have information passed on to me by a very reliable source from the New York Times that DOE is planning a smear campaign against me. The student athletes are being irrevocably harmed due to the personal ill will by Donald Douglas and member of the PSAL resulting from the Staten Island incident. Because I stood up, they have decide to punish the student athletes who shown a tremendous amount dignity last year at Staten Island.

20. But most importantly, the DOE retaliated against me by dismantling this Football program. Even if the football program is reinstated the following year, the program would be irrevocably harmed since the recruitment from colleges would have ceased, the recruitment of student athletes would have ceased and the entire program would could not be started again due to

the loss of good will and loss of grants. Eliminating this program is not just a First Amendment violation but it is at the expense of the student athletes that will be irrevocably harmed. I was terminated as a coach after the most successful football season in Harlem history (10-2) and the program has been dismantled. Out of nine seniors, I expected to have scholarship at colleges and universities for all the seniors. (In the previous year, thirteen out of fifteen senior received scholarships and went to colleges and universities.) These students going into 12<sup>th</sup> grade have nowhere to go and will lose their scholarships and ability to lift themselves out of poverty. This program should be reinstated or these student athletes' opportunity to lift themselves out of the cycle of poverty will be lost forever.

**I HEREBY DECLARE UNDER THE PENALTIES OF PERJURY THAT THE FOREGOING STATEMENT IS TRUE AND CORRECT THIS 28<sup>TH</sup> DAY OF JULY 2008.**

**s/Duke Fergerson**  
**DUKE FERGERSON**

To: Corporation Counsel  
via ECF